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Danny R. Gaydou

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EXAMINER

STRONCZER, RYAN S

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,486	Applicant(s) GAYDOU ET AL.	
	Examiner Ryan Stronczer	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 and 69-98 is/are pending in the application.
- 4a) Of the above claim(s) 69-98 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see section III, pages 24-25, filed 27 May 2008, with respect to Examiner's objections to various means-plus-function and system claims have been fully considered and are persuasive. The claim objections set forth in the previous Office Action have been withdrawn.

Applicant's arguments with respect to claims 1-51 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

Newly submitted claims 80-83 and 95-98 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Newly presented claims 80-83 and 95-98 are directed to a different embodiment of the present invention from that previously presented and would require an additional burden on the Examiner. Specifically, the newly submitted claims are directed to an embodiment comprising simultaneously displaying multiple programs as well as multiple transport control bars in a picture-in-picture configuration which has not been previously presented. Applicant's originally presented claims are directed towards an embodiment in which a single program is displayed and a single transport control bar is updated to indicate that a first program has finished and that a second, subsequent program is being displayed.

Art Unit: 2623

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 80-83 and 95-98 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 75 and 90 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for displaying a transport control bar with a first and second segment which are visually distinguishable, does not reasonably provide enablement for distinguishing between programs which were recorded automatically and those based on user request. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Though the specification of the instant application teaches that

It will be understood that transport control bar 3200 may also display information when the user activates a recording option to record a particular program (as opposed to automatic recording of content into a buffer). For example, the interactive television program guide application may display transport control bar 3200 when the user presses a "record" button on a remote control to record content on a currently tuned channel. [0222]

The specification does not teach that the transport control bar can be configured to visually distinguish between programs which were recorded automatically and those based on user request. The recited “displaying information when a user activates a recording option” does not reasonably provide enablement for distinguishing between scheduled recordings and automatically buffered content.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-6, 15, 16, 18, 19, 21-23, 32, 33, 35, 36, 38-40, 49, and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaminski et al. (Pub. No.: US 2003/0121055).

As to claims 1 and 18, Fig. 4 of Kaminski teaches the recited method comprising: “[1] displaying the currently broadcasting program (*media content instance display area 405*) ; [2] determining a start time and an end time associated with the currently broadcasting program (*inherent in displaying title portion 427*); and [3] displaying a transport control interface (*pause banner 420 and progress bar 410*), wherein the transport control interface indicates: time length of the currently broadcasting program

Art Unit: 2623

based on the start time and on the end time (**427**), and at least one time segment of the time length of the currently broadcasting program that has been recorded (*accessible portion 430*).”

As to claims 8, and 25 Fig. 4-6 of Kaminski teach the recited “displaying a currently broadcasting program (*media content instance display area 405*); displaying a transport control interface that indicates a first time segment associated with a recording of the currently broadcasting program (*pause banner 420, progress bar 410, and accessible portion 430*); and when playing of the currently broadcasting program is finished, determining that playing of the currently broadcasting program is finished (*this is inherent in changing the displayed title of the current program underneath the progress bar between Fig. 5 and 6*); displaying a subsequent broadcasting program (*FIG. 6 is an exemplary screen diagram illustrating the progress bar 610 where the user has paused 15 minutes past the start of the next media content instance, “The Drew Carey Show.” [0079]*), and modifying the transport control interface in response to determining that playing of the currently broadcasting program is finished (*the title of the current program changes from Fig. 5-7 as each program finishes and the subsequent program is shown*), wherein the transport control interface is modified to indicate the first time segment (*bar arrow 638 indicates that there is a buffered media content instance [i.e., the recited first time segment] before the currently-broadcasting subsequent program*) and a second time segment associated with a recording of the subsequent broadcasting program (*accessible portion 630*).”

As to claim 42, the rejection of claims 8 and 25 is incorporated herein. Fig. 3A of Kaminski teaches the recited user input interface (**380**) and display (TV **341**). The recited control circuitry is inherent in the device of Fig. 3A.

As to claims 15 and 32, Kaminski teaches the recited “displaying a television program (*media content instance display area* **405**); and displaying a transport control interface (*pause banner* **420** and *progress bar* **410**) that indicates a time segment associated with a recording of the television program (*accessible portion* **430**), the transport control interface further indicating programming information associated with the television program (*title portion* **427**).”

As to claim 49, the rejection of claims 15 and 32 is incorporated herein. Fig. 3A of Kaminski teaches the recited user input interface (**380**) and display (TV **341**). The recited control circuitry is inherent in the device of Fig. 3A.

As to claims 2, 9, 16, 19, 26, 33, 43, and 50, Fig. 4 of Kaminski teaches progress bar **410** which is equivalent to the recited transport control bar.

As to claims 4, 11, 21, 28, and 45, Fig. 4 teaches that the progress bar further contains accessible portion **430** and inaccessible portion **432** which is equivalent to the recited “at least one time segment [which] is represented by at least one region of the transport control bar.”

As to claims 5, 12, 22, 29, and 46, Fig. 4 teaches that accessible portion **430** and inaccessible portion **432** are shaded differently so as to be visually distinguishable.

As to claims 6, 13, 23, 30, and 47 Kaminski teaches that the accessible portion **430** “represents when the media content instance displayed was tuned to and buffered

Art Unit: 2623

into the TSB [time shift buffer] 378" [0077] which is equivalent to the recited "wherein the at least one time segment represents at least one portion of the currently broadcasting program that has been automatically recorded into buffer memory."

As to claims 35, 36, and 38-40, the rejections of claims 1, 2, and 4-6, respectively, are incorporated herein. Fig. 3A of Kaminski teaches the user input interface (380) and display (TV 341) recited in claim 35. The recited control circuitry is inherent in the device of Fig. 3A.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 14, 24, 31, 41, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al. as applied to claims 1, 8, 18, 25, 35, and 42 above

As to claims 7, 14, 24, 31, 41, and 48, though the exemplary embodiment of Fig. 4 assumes that *"the user turned the TV on and tuned into the media content instance two minutes ago, which occurred midway through the media content instance"* [0077], Kaminski teaches the device in the context of a PVR system. Examiner takes Official Notice that it is well within the scope of a PVR to record a program in response to a specific user command and that it would have been obvious to one of ordinary skill in

Art Unit: 2623

the art at the time of the invention that the user interface taught by Fig. 4 of Kaminski could have been used to indicate the recording status of a program that the user specifically requested to record.

Claims 3, 10, 17, 20, 27, 34, 37, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al. as applied to claims 1, 8, 18, 25, 35, and 42 above, and further in view of Vallone et al. (US Pat. No.: 6,847,778).

As to claims 3, 10, 17, 20, 27, 34, 37, 44, and 51, Fig. 4 of Kaminski teaches the recited transport control bar, but does not explicitly teach “displaying the start time on one end of the transport control bar and the end time on an opposite end of the transport control bar,” as recited. Fig. 26 of Vallone teaches a PVR interface with an analogous transport control bar **2601** which displays a start and end time on opposite ends of the control bar. It would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention to display the start and end times of the program shown in title portion **427** of Fig. 4 of Kaminski on either end of the transport control bar in the manner taught by Fig. 26 of Vallone.

Claims 69-74, 77-79, 84-89, and 92-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al. and further in view of West et al. (Pub. No.: US 2003/0110514).

As to claim 69, Fig. 4-12 of Kaminski teach displaying a program as well as a transport control bar with multiple time segments on a display; however, Kaminski does

Art Unit: 2623

not explicitly teach simultaneously displaying segments corresponding to more than one program on the transport control bar, as is recited in claim 69. Fig. 11 of West teaches an analogous PVR interface including a surf buffer **1130** which “includes a list of all of the surfed media content instances...from a plurality of display channels. The boundaries of the tuned start and end time of each media content instance is preferably delineated by a line **1135**” [0109]. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of the surf buffer to show multiple recorded programs on one progress bar taught by West into the status bar of Kaminski to allow users of Kaminski's system easier access to their recorded programs and better control over their PVR buffer.

As to claim 84, the rejection of claim 69 is incorporated herein. Fig. 3A of Kaminski teaches the recited memory buffer (TSB **378**) and display (TV **341**). The recited control circuitry is inherent in the device of Fig. 3A.

As to claims 70 and 85, Fig. 6-8 of Kaminski teach an arrow bar (638, 738, 837) which “*represents that there exists a buffered media content instance before the Drew Carey Show (i.e. Who Wants To Be a Millionaire)* [Fig. 6]” [0079]. Utilizing the “surf bar” capability taught by West to show a single status bar with all previously recorded programs from a single channel (e.g., Spin City, The Drew Carey Show, and Who Wants to be a Millionaire) is an embodiment of the combined teachings of Kaminski and West that would have been obvious to one of ordinary skill in the art at the time of the invention.

As to claims 71 and 86, Examiner takes Official Notice that it is well known and widely practiced in the art for a PVR such as that taught by Kaminski and West to record programs from more than one channel either subsequently or concurrently using multiple tuners and that such functionality would have been obvious to one of ordinary skill in the art to employ at the time of the invention.

As to claims 72 and 87, the surf buffer taught by Fig. 11A-B of West identifies each segment of the surf buffer (e.g., MC1, MC2, etc.). Further, West teaches, *"highlighted option block **1130** includes a list of all of the surfed media content instances (for example, by media content instance title) from a plurality of display channels"* [0109]. It would have been obvious to one of ordinary skill in the art at the time of the invention that the channel of each media content instance could be displayed in its corresponding segment of surf bar **1130** instead of the title of program.

As to claims 73 and 88, West teaches that *"The boundaries of the tuned start and end time of each media content instance is preferably delineated by a line **1135**. Other mechanisms for delineating the boundaries can include using differences in shading or color..."* [0109].

As to claims 74 and 89, each segment of the surf bar 1130 corresponding to MCI1-4 is a different length, corresponding to the length of the recorded MCI segment. This is equivalent to the recited "visual properties of the first and second time segment [which] reflect characteristics respectively of the first and second program."

As to claims 75 and 90, West teaches that each block of surf bar 1130 corresponding to a different media content instance can be distinguished using

“differences in shading or color” [0109]. Since the media content instances MCI 1-4 of surf bar 1130 can comprise automatically buffered segments of programs viewed, West provides the equivalent functionality of the recited “wherein the visual properties of the first and second time segments respectively are based on whether the first and second programs were recorded automatically...”

As to claims 76 and 91, Fig. 4-10 of Kaminski teach an accessible content portion which is equivalent to the recited “wherein the visual properties of the first and second time segments, respectively, are based on whether the first and second programs are currently being recorded...” As analyzed above, the combination of Kaminski and West would have allowed for multiple segments to be displayed on a single status bar.

As to claims 77 and 92, West teaches, *“[If] the user has selected to view the contents of the composite buffer file (i.e., the surfing buffer)...The user also can be presented with a navigating bar within each boundary area or near each boundary area that enables individual media content instance selections for display”* [0110]. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the system of West to provide the user with an interface through which the user can highlight and/or use a navigating bar to select a specific media content instance from within surf bar **1130** to be displayed. Doing so inherently would have resulted in the indicating which MCI was currently displayed, and thus, conversely, which MCI were not currently displayed, as recited in claims 77 and 92.

As to claims 78 and 93, West, as analyzed above, teaches that the user can be presented with an interface by which the user can select a specific MCI from within surf bar 1130 to be displayed. Updating the status bar to reflect which media content instance is currently being displayed is inherent in providing an interface that indicates which media content instance is currently being displayed and that allows the user to select a different content instance to be displayed.

As to claims 79 and 94, Fig. 4-12 of Kaminski teach that the title of the currently program is displayed underneath the progress bar.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Stronczer whose telephone number is (571) 270-3756. The examiner can normally be reached on 7:30 AM - 5:00 PM (EDT), Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan Stronczer/
Examiner, Art Unit 2623

/Brian T. Pendleton/
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